

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION**

In re:

CLEMMER'S CONSTRUCTION, LLC

Debtor.

Chapter 11

Case No. 23-40136

OBJECTION TO PLAN OF REORGANIZATION

NOW COMES John Deere Construction & Forestry Company (hereinafter referred to as "Deere"), by and through its undersigned counsel, and objects to the Debtor's Plan of Reorganization (the "Plan") filed on or about December 15, 2023. In support of this Objection to Plan of Reorganization (the "Objection"), Deere shows unto the court as follows:

1. The Debtor filed a bankruptcy petition on August 3, 2023 (the "Petition Date") and continues to operate as a debtor-in-possession.
2. In connection with its business operations, the Debtor's principal, Michael Glenn Clemmer, obtained funds from Deere, summarized as follows:
 - a. Loan Contract and Security Agreement dated March 31, 2023 (the "Loan"), evidencing a loan obligation executed by Michael Glenn Clemmer. The amount outstanding as of the Petition Date was \$153,799.83.
 - b. The Loan was secured by a ZX130LCS6 Excavator Base, 36 Bucket, and Thumb (the "Collateral").

3. Prior to the Petition Date, the Collateral was deemed a total loss and on June 6, 2023, N.C. Farm Bureau Mutual Insurance Company issued a joint check to the Debtor and Deere in the amount of \$142,877.85. The Debtor endorsed the check and presented it to its bank without obtaining a joint endorsement from Deere. Upon information and belief, the entirety of the insurance proceeds were paid to the Debtor. None of the insurance proceeds were paid to Deere and the amount due and owing under the loan is \$153,799.83, plus accruing interest and fees, if applicable.

4. It is unclear from a review of the Debtor's Schedules what happened to the \$142,877.85.

5. While the Debtor received \$142,877.85 that was due to Deere under the Loan, the Plan provides no treatment for the repayment or return of these funds to Deere.

6. Deere reserves the right to make additional objections to the Plan at the confirmation hearing.

NOW, THEREFORE, for the reasons set forth above, Deere requests that confirmation of the Debtor's Plan be denied unless the Plan is modified in a manner acceptable to Deere and in conformity with applicable law, and for such other and further relief as is just and proper.

This, the 18th day of January, 2024.

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC

By: /s/ Jill C. Walters
Jill C. Walters
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*Counsel for John Deere Construction &
Forestry Company*

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that she is over eighteen (18) years of age and that a copy of the OBJECTION TO PLAN OF REORGANIZATION was this day served upon the below-named persons, parties, and/or counsel by depositing a copy thereof in the United States Mail, First Class, postage prepaid, to the addresses shown below, or by CM/ECF:

Clemmer's Construction, LLC
1402 Mirror Lake Road
Lincolnton, NC 28092

James David Nave, Esq.
Via CM/ECF

United States Bankruptcy Administrator –
WDNC

R. Keith Johnson, Esq.
Via CM/ECF

Niall T. McLachlan, Esq.
Via CM/ECF

J. Michael Fields, Esq.
Via CM/ECF

This, the 18th day of January, 2024.

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC

By: /s/ Jill C. Walters
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*Counsel for John Deere Construction and
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